IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 25(M/B) of 2002

Vijendra Kumar Jain S/o Bhola Nath Jain
Proprietor of V.K. Construction,
R/o 65/3 Railway Road, Rookee,
District Haridwar ... Petitioner.

Versus

1-Commissioenr, Income-Tax Dehradun
2- Income Tax Officer, Roorkee, Haridwar.
3- Dy. Commissioner Income tax Circle
Muzaffarnagar (U.P.) ... Respondents

Sri D. Barthwal, holding brief for Sri Alok Singh,
Senior Advocate, learned counsel for the appellant
Sri P.C. Maulekhi, S.C. (Income Tax).

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 16-06-2006

By means of this writ petition the petitioner has prayed for a writ in the nature of certiorari to quash the notice dated 15-10-1999, contained in Annexure No.1 to the writ petition.

2- The notice dated 15-10-1999 reads as under:-

"F.A. No. GIR No. V-424 OFFICE OF THE
INCOME TAX OFFICER
DATED 15.10.99.

To,

Sh. Vijender Kumar Jain Prop.
M/s V.K. Construction
65/3, Railway Road, Roorkee
Roorkee.

Whereas I have reason to belief that your income, chargeable to tax for assessment year 1998-1999 has escaped assessment within the meaning of Section 147 of Income tax Act 1961.

I, therefore, propose to assess re-assess the income for the said assessment year and I hereby require you to deliver to me within 15 days from the date of service of this notice a return in the prescribed form of your income for the said assessment year.

Sd/GAYA PRASAD
INCOME TAX OFFICER
ROORKEE."

3- In response to the aforesaid notice the petitioner has filed his rely, which is contained in Annexure-2 to the writ petition. Since the petitioner has filed his response, and the order is passed and assessment is made after considering the representation of the petitioner, the petitioner will have remedy under the Income Tax Act to file an appeal and thereafter second appeal. Therefore, we are not inclined to retain this writ petition pending.

4- Accordingly the writ petition is dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

ISB